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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF MARIN

11 CHURCH OF SCIENTOLOGY INTERNATIONAL,)
a California not-for-profit)
12 religious corporation,)
)
13 Plaintiff,)
)
14 vs.)
)
15 GERALD ARMSTRONG; MICHAEL WALTON;)
THE GERALD ARMSTRONG CORPORATION,)
16 a California for-profit)
corporation; DOES 1 through 100,)
17 inclusive,)
)
18 Defendants.)
)
19 _____)

No. 157 680

GERALD ARMSTRONG'S
OPPOSITION TO DEMURRER
TO SECOND AMENDED
CROSS-COMPLAINT

Date: June 10, 1994
Time: 9:00 a.m.
Dept: One
Trial Date: 9/29/94

COPY

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1 **I. INTRODUCTION**

2 On March 25, 1994, the Court sustained Scientology's demurrer
3 to Armstrong's first amended cross-complaint. As to the cause of
4 action for abuse of process, the Court ordered:

5 As to the second cause of action for abuse of process,
6 cross-complainant fails to allege any "wilful act in the
7 use of process not proper in the regular conduct of the
8 proceeding." (see Oren Royal Oaks Venture v. Greenberg,
9 Berhard, Weiss, Karma, Inc. (1986) 42 Cal.3d 1157, 1168)
All of the allegations regarding plaintiff's pursuit of
this litigation go to the first element of the cause of
action, "ulterior purpose." (Id.) Cross-complainant
shall have 20 days' leave to amend to state a cause of
action if he can.

10 (Tentative Ruling, 3/25/94)

11 Thereafter Armstrong filed his second amended cross-complaint
12 ("SAC") which is the subject of the instant proceeding. Rather
13 than address Scientology's aspersions thrown at the allegations of
14 Armstrong's second amended cross-complaint, and based on the clear
15 implication from the Court's order that Armstrong has sufficiently
16 pleaded the element of "ulterior purpose," ¹/ he will go directly
17 to the issue of whether or not he has pleaded any "wilful act in
18 the use of process not proper in the regular conduct of the
19 proceeding."

20 **II. ARMSTRONG'S SECOND AMENDED COMPLAINT**
21 **ALLEGES THE WILFUL ACTS THAT THE COURT'S**
22 **MARCH 25, 1994 ORDER SAID WERE REQUIRED**

23 Armstrong has sufficiently pleaded the ulterior purpose
24 element of an abuse of process. He says it is Scientology's use
25 of the legal system as an engine of retributive and retaliatory
26 destruction intended to eliminate any impediment to its

27 ¹ It is curious that only now Scientology seeks in its
28 companion motion, for the first time to strike said allegations in
this attack on the cross-complaint.

1 dissemination of propagandistic falsehoods and to suppress
2 evidence and obstruct justice. (SAC ¶¶ 10-46)

3 Armstrong's second amended cross-complaint alleges that his
4 former lawyer, Michael Flynn, represented former organization
5 executives Laurel Sullivan ("Sullivan"), William Franks
6 ("Franks"), Howard Schomer ("Schomer"), Edward Walters ("Walters")
7 and Martin Samuels ("Samuels"), all of whom were Scientology
8 contemporaries of Armstrong. (SAC, ¶ 21) While so represented by
9 Flynn, who had his own claims against Scientology (SAC ¶ 22),
10 Sullivan, Franks, Schomer, Walters, and Samuels signed gag
11 agreements identical to that signed by Armstrong under
12 circumstances in which Flynn was effectively acting as the agent
13 of Scientology. Moreover Flynn agreed never to litigate against
14 Scientology again or to assist his client, defendant Armstrong.
15 (SAC ¶¶ 26-35) ^{2/}

16 Having no money to fiance depositions and travel, Armstrong
17 is unable to effectively defend himself in the instant litigation
18 and that in Los Angeles wherein Scientology is seeking to enforce
19 the settlement contract, because his witnesses have all signed
20
21
22

23 ² Scientology admits the existence of such contracts when
24 it states "Armstrong's request that the Church abandon the similar
25 benefit which it bargained for and received in the form of
26 settlement agreements with third parties is ludicrous."
27 (Memorandum in Support of Demurrer at 8:13-15) Moreover,
28 Scientology argument that the only evidence that is relevant is
limited to "the Church's claim that he fraudulently transferred
his property to his co-defendants" (Id. at 8:20-21) disregards
both the new matter asserted in the affirmative defenses in
Armstrong's answer and the fact that Armstrong cannot finance the
taking of depositions of third-party witnesses.

1 identical contracts. ^{3/} Armstrong has requested Scientology to
2 release such persons from their contracts so that he could have
3 witnesses who would support his defense both in the Los Angeles
4 Action and here. Scientology has refused. (SAC ¶¶ 60-67)

5 Such has the effect of aggregating control of both sides of
6 the litigation to Scientology because it has eliminated the
7 witnesses whose testimony would damages its claims from being
8 available to Armstrong. Even if Armstrong took the depositions of
9 such witnesses, if they were not specifically released, they would
10 still be subject to the type of intimidation alleged by Armstrong
11 in Paragraphs 42-43 of his second amended cross-complaint.

12 Both the effect of such a scheme and another wilful act in
13 furtherance thereof are alleged with reference to Scientology
14 filing a declaration containing falsehoods which pertained to
15 Armstrong and then suing Armstrong for filing his own declaration
16 in rebuttal. (SAC ¶ 69) Armstrong further alleges the abusive
17 nature of such scheme by stating that in the face of Scientology's
18 lies about him he has two choices: to respond or to remain silent.
19 If he responds, he is sued and if he remains silent, Scientology
20 will state that he adoptively admits its falsehoods. (SAC ¶ 70)

21 ^{4/}

22
23
24 ³ It is upon such contract Scientology asserts its "claim"
25 in the instant lawsuit responsibility for which it contends
26 Armstrong has sought to evade by transferring what was once his
house to another of his former lawyers, Michael Walton.

27 ⁴ Scientology does not directly address what Armstrong
28 alleges with respect to what David Miscavige, the leader of
Scientology, said about Armstrong and Armstrong's response thereto
which Scientology then used as the basis to sue Armstrong again.

1 Further, in this action on August 3, 1993, Scientology
2 knowingly and without legal authority filed a lis pendens against
3 the Fawn Drive property as part of its use of the legal system as
4 a tool of destruction in general and to hurt Armstrong in
5 particular by attacking his friends, the Waltons. (SAC ¶ 68)

6 On October 29, 1993, this Court ordered the expungment of
7 said lis pendens as follows:

8 The Court, having considered the evidence and the
9 points and authorities in support of and in opposition
10 to the motion, and having heard argument from counsel,
11 finds that the motion should be granted and the notice
12 of pendency of action (lis pendens) recorded August 5,
13 1993 in the office of the County Recorder of the County
14 of Marin as instrument number 93-062800, and filed in
15 the above-captioned action, should be expunged on the
16 grounds that the within action does not affect title to
17 or possession of specific real property ... and
18 plaintiff has failed to establish the probable validity
19 of the real property claim contained in the complaint by
20 a preponderance of the evidence ... and the notice of
21 pendency of action (lis pendens) was defectively served
22 and filed.

23 IT IS THEREFORE ORDERED THAT the notice of pendency
24 of action (lis pendens) recorded on August 5th, 1993 in
25 the office of the County Recorder of Marin County as
26 instrument number 93-062800 is hereby ordered expunged.

27 IT IS FURTHER ORDERED that plaintiff, Church of
28 Scientology International, shall reimburse SOLINA WALTON
in the sum of \$3,500 for attorneys fees and costs and
\$14.00 payable before Dec. 1st 1993.

(Order filed herein on 10/29/93)

21 Scientology has refused, despite request, to obey the Court's
22 October 29, 1993 order. (SAC ¶ 68) Moreover, on November 29,
23 1993 Scientology has filed yet another lis pendens against the
24 same property. With respect to the November 29, 1993 lis pendens
25 not one of the individuals named on the proof of service thereof
26 received service of said lis pendens. (Declarations of Michael
27 Walton, Gerald Armstrong and Ford Greene)

28

1 **III. THE DEMURRER MUST BE OVERRULED AS TO**
2 **ARMSTRONG'S CAUSE OF ACTION FOR ABUSE OF PROCESS**

3 **A. The Cause Of Action For Abuse Of Process Is**
4 **Not Barred By The One Year Statute Of Limitations**

5 As alleged, the conduct which took place prior to November
6 30, 1992, is to provide context for Armstrong's abuse of process
7 cause of action. Such pre-November 30, 1992, conduct is not
8 alleged in and of itself as an independent tort.⁵ Such pre-
9 November 1993 conduct is alleged, however, as providing the
10 infrastructure for the abuse of process cause of action which is
11 solely aimed at the conduct manifest in the instant lawsuit. The
12 cross-complaint, moreover, alleges that the complaint and other
13 activities herein is part of such scheme and this complaint herein
14 specifically constitute an abuse of process. Since the complaint
15 herein was filed on July 23, 1993, the abuse of process cause of
16 action clearly falls within the one year statute.

17
18
19 ⁵ Were the Court to be convinced by Scientology's
20 contention that the pre-November 1993 conduct was, in fact,
21 alleged as tortious separate from the second cause of action as
22 alleged herein, the Court could impose liability on a continuing
23 tort theory. "The continuing tort doctrine constitutes a pretty
24 well established exception to the usual rule that a statute of
25 limitations starts to run at the time of injury." (The American
26 Law of Torts, § 5:27 at 888-89.) Pursuant to this doctrine, a
27 plaintiff can bring an action against all of a defendant's
28 wrongful conduct, as long as any of it took place during the
limitation period. The continuing tort doctrine is applied where
"no single incident in a continuous chain of tortious activity can
'fairly or realistically be identified as the cause of significant
harm' [making it] proper to regard the cumulative effect of the
conduct as actionable." (Page v. United States (D.C.Cir. 1984)
729 F.2d 818, 821-822 quoting Fowkes v. Pennsylvania R.R. (3rd
Cir.1959) 264 F.2d 397, 399) The doctrine is intended to prevent
a person from acquiring a right to continue to reap benefits from
previous tortious conduct. (Page, supra, 729 F.2d at 822)

1 B. The Abuse Of Process Cause Of Action
2 Is Not Barred By The Law of Privilege

3 1. Since The Object Of Scientology's Fraudulent
4 Conveyance Action Is The Suppression And
5 Censorship Of Open Communication In Judicial
6 Proceedings, The Complaint Does Not Qualify For
7 Protection By The Litigant's Absolute Privilege

8 The "broad application" given to Civil Code section 47 (b)
9 provided that it satisfy four conditions: the communication was
10 (1) made in a judicial or quasi-judicial proceeding;
11 (2) by litigants or other participants authorized by law;
12 (3) to achieve the objects of the litigation; and
13 (4) that have some connection or logical relation to the action.

14 (Silberg v. Anderson (1990) 50 Cal.3d 205, 211-212, 219)

15 Before discussing Scientology's failure to satisfy the third
16 element herein, Armstrong will address the manner in which the
17 allegations of the cross-complaint describe behavior that strikes
18 at the very heart of the policy reasons which the California
19 Supreme Court has justified the litigant's privilege to be
20 "absolute."

21 Certain essential values, defined as "policy" by the
22 California Supreme Court, support the rule that if the four
23 conditions are satisfied, the judicial privilege provides absolute
24 protection. (Id. at p. 215) Whenever the scope of the privilege
25 that the court designates to be "absolute" includes conduct that
26 is harmful, the court's protection can extend to wrongful abuse
27 and exploitation. Therefore, an absolute privilege can "protect
28 the shady practitioner" (Id. at p. 214) such as an attorney who
 "seeks to deceive a party into relying on an expert by
 misrepresenting an expert's impartiality." (Id. at p. 213) This

1 judicially struck balance values the untrammelled ability to protect
2 "the honest one [from having to be] concerned with subsequent
3 derivative actions" (Id. at p. 214) over the "occasional 'unfair'
4 result." (Id. at p. 213)

5 Similarly, the privilege promotes and encourages

6 "'open channels of communication and the presentation of
7 evidence' in judicial proceedings." [Citation] A
8 further purpose of the privilege 'is to assure utmost
9 freedom of communication between citizens and public
10 authorities whose responsibility is to investigate and
11 remedy wrongdoing.' [Citation] Such open communication
12 is 'a fundamental adjunct to the right of access to
13 judicial ... proceedings.' [Citation] Since the
14 'external threat of liability is destructive of this
15 fundamental right and inconsistent with the effective
16 administration of justice' [Citation], courts have
17 applied the privilege to eliminate the threat of
18 liability for communications made during all kinds of
19 truth seeking proceedings: judicial, quasi-judicial,
20 legislative and other official proceedings."

21 (Ibid.)

22 The "occasional unfair result" is outweighed by keeping
23 "witnesses ... free from the fear of protracted and costly
24 lawsuits which otherwise might cause them either to distort their
25 testimony or refuse to testify altogether" (Id. at p. 214) in
26 order that "the paths that lead to the ascertainment of truth
27 should be left as free and as unobstructed as possible." (Ibid.)

28 The gravamen of the cross-complaint is that by engineering
the subversion of the lawyer who represented the most effective
witnesses knowledgeable of Scientology's behavior so that he would
get those clients to sign unconscionable settlement contracts
subjecting them to harassing lawsuits if they ever testified as
witnesses again, Scientology is now able to systematically corrupt
"an effective and smoothly operating judicial system" by refusing
to release said witnesses to assist Armstrong in his defense in

1 this action. (Id. at p. 215) ⁶/

2 By virtue of threats of lawsuits, and its refusal to allow
3 percipient witnesses to assist Armstrong, who has no money to take
4 their depositions, Scientology has eliminated from this case the
5 "open channels of communication" an entire genus of judicially-
6 credited and truthful witnesses knowledgeable about its behavior
7 and practices. Gerald Armstrong stands up against this, refusing
8 to be used as a tool of corruption. (SAC at ¶ 43) ⁷/

9 By way of retaliation and retribution, Scientology is
10 attempting to destroy Armstrong and make an example of him. It is
11 doing so by using the settlement contracts it got Armstrong's

12 _____
13 ⁶ The Los Angeles Superior Court has recognized that the
14 settlement contract on which the instant case is based is corrupt.
15 Judge Geernaert stated: "[T]hat is ... one of the most ambiguous,
16 one-sided agreements I have ever read. And I would not have
17 ordered the enforcement of hardly any of the terms had I been
18 asked to, even on the threat that, okay, the case is not settled.
19 I know we like to settle cases. But we don't like to settle cases
20 and, in effect, prostrate the court system into making an order
21 which is not fair or in the public interest." (SAC at ¶ 45)

22 ⁷ Before Armstrong made this determination, he endured
23 Scientology's continual attacks Armstrong after December 1986 when
24 the settlement contract was signed. It published a false and
25 unfavorable description of Armstrong in a "dead agent" pack. It
26 filed several affidavits in the case of Church of Scientology of
27 California v. Russell Miller and Penguin Books Limited, Case No.
28 6140 in the High Court of Justice in London England which falsely
accused Armstrong of violations of court orders, and falsely
labeled him "an admitted agent provocateur of the U.S. Federal
Government." It delivered copies of an edited version of an
illegally obtained 1984 videotape of Armstrong to the
international media (SAC at ¶ 41).

After Armstrong was subpoenaed to testify in the case of Bent
Corydon v. Scientology, Los Angeles Superior Court No. C 694401,
Scientology threatened Armstrong with lawsuits on six occasions if
he did not obey its orders to not testify regarding Scientology's
dark side. (SAC at ¶¶ 42-43) In the fall of 1989, right after
receiving a series of threats from organization attorney Lawrence
Heller, Armstrong, who had not earlier responded to Scientology's
post-settlement attacks, concluded that he was being used to
obstruct justice and that he had a right and a duty to not
obstruct justice. (SAC at p. 43)

1 attorney to make Armstrong and those who, but for the gag-
2 contracts, would be his witnesses sign as a lever to deprive
3 Armstrong of a defense in this action.

4 The prosecution of the instant lawsuit is necessarily
5 predicated on the settlement contract with Armstrong, while
6 Armstrong's ability to defend himself is eviscerated because of
7 identical contracts with those who otherwise would be his
8 witnesses. Each of the many contracts does not allow the former
9 witnesses "to testify or otherwise participate in any other
10 judicial, administrative or legislative proceeding adverse to
11 Scientology ... [and] shall not make himself amenable to service
12 of any such subpoena in a manner which invalidates the intent of
13 this provision." (Verified Complaint herein, Exhibit A at ¶ 7-H,
14 pp. 10-11) Scientology refuses to release any such witnesses
15 from such contract for the limited purpose of assisting Armstrong
16 mount his defense in the instant litigation. By virtue of
17 contracts purchased through the corruption of counsel who
18 represented the signing parties, and its refusal to release such
19 parties, Scientology's objective is to suppress, censor and
20 exclude relevant evidence from truth-seeking proceedings to which
21 it is a party. And if one of those who signed such a contract
22 rejects its chains by vigorously participating in "freedom of
23 communication during this truth-seeking proceeding," Scientology
24 will sue him until he no longer exercises "freedom of
25 communication" on behalf of Armstrong or anyone else.

26 Armstrong's second amended cross-complaint says such conduct
27 constitutes an abuse of process. Scientology has sued Armstrong
28 because Armstrong has refused to go along with a contract that

1 Scientology compromised his former counsel to get Armstrong to
2 sign. The same counsel got Armstrong's witnesses to sign
3 identical contracts. Now Scientology will not release such
4 persons for the limited purpose of assisting Armstrong defend
5 himself herein. Thus, Scientology in exerting control over both
6 sides of the litigation, which constitutes an abuse of process.

7 In O'Morrow v. Borad (1946) 167 P.2d 483, the California
8 Supreme Court stated "[i]t is contrary to public policy for a
9 person to control both sides of litigation . . . [which is] in
10 accordance with the fundamental principle that one may not be both
11 the plaintiff and the defendant in an action." (Id. 167 P.2d at
12 486) Thus,

13 The prevailing doctrine in our judicial system that an
14 action not founded upon an actual controversy between
15 the parties to it, and brought for the purpose of
16 securing a determination of a point of law, is collusive
and will not be entertained; and the same is true of a
suit the sole object of which is to settle rights of
third persons who are not parties.

17 (Golden Gate Bridge and Highway Dist. v. Felt (1931) 214 Cal. 308,
18 5 P.2d 585, 589-90) Just as "[i]t necessarily follows that the
19 same party cannot be plaintiff and defendant in the same law suit,
20 even though he sue in one capacity and defend in another,"
21 (Redevelopment Agency, Etc. v. City of Berkeley (1978) 143
22 Cal.Rptr. 633, 636-37), it also necessarily follows that a party
23 cannot be the only party in ongoing litigation because he has
24 purchased the absence of adverse witnesses upon whom the defense
25 of his adversary depends.

26 The most insidious object of Scientology's litigation
27 strategy is to suppress and control the very values which make up
28 "the backbone to an effective and smoothly operating judicial

1 system." (Silberg 50 Cal.3d at p. 215.) This strikes at each of
2 the reasons which underlie the privilege that Scientology is
3 asking this court to use in order to throw out Armstrong's cross-
4 complaint.

5 2. **The Privilege Does Not Apply Because The**
6 **Cross-Complaint Alleges That The Conduct**
7 **Constituting An Abuse Of Process Is Part**
8 **Of A Scheme To Suppress Evidence And**
9 **Obstruct Justice In Order To Control Both**
10 **Sides of Litigation**

11 Civil Code section 47 (b) (2) states that a publication in a
12 judicial proceeding is privileged except if the communication is

13 "made in furtherance of an act of intentional
14 destruction or alteration of physical evidence
15 undertaken for the purpose of depriving a party to
16 litigation to the use of that evidence, whether or not
17 the content of the communication is the subject of a
18 subsequent publication or broadcast which is privileged
19 pursuant to this section. As used in this paragraph,
20 'physical evidence' means evidence specified in Section
21 250 of the Evidence Code or evidence that is property of
22 any type specified in Section 2031 of the Code of Civil
23 Procedure."

24 In its fourth cause of action in its Verified Complaint For
25 Damages And For Preliminary And Permanent Injunctive Relief For
26 Breach Of Contract filed in Marin County Superior Court, Case No.
27 152 229 Scientology alleged:

28 "36. In addition to the paralegal
services which Armstrong has provided to Ford
Greene on the Aznarans' litigation, Armstrong
also provided the Aznarans with a declaration,
dated August 26, 1991, and filed in the
Aznaran's case. In that declaration Armstrong
describes some of his alleged experiences with
and concerning plaintiff, and purports to
authenticate copies of certain documents.
These actions and disclosures are violations
of Paragraphs 7(G), 7(H) and 10 of the
Agreement, requiring that Armstrong pay to CSI
and RTC \$50,000 in liquidated damages."

(Request for Judicial Notice filed March 19, 1994, Exhibit D at p.

1 9) The Declaration to which the language in Armstrong II refers
2 is attached as Exhibit F to the Declaration of Ford Greene
3 Opposing Motion To Exclude Expert Testimony filed in Aznaran v.
4 Church of Scientology of California, U.S. District Court, Central
5 District of California, Case No. CV-88-1786-JMI (Ex). (Request
6 for Judicial Notice filed March 19, 1994, Exhibit E) Attached to
7 Armstrong's Declaration are two exhibits. Exhibit 1 is a letter
8 from L. Ron Hubbard to the Federal Bureau of Investigation.
9 Exhibit 2 is one of thousands of Scientology's technical
10 bulletins. Hubbard brags that he knows how to "brainwash faster
11 than the Russians (20 secs to total amnesia against three years to
12 slightly confused loyalty)." Such materials are those which fall
13 within the scope of Evidence Code section 250 and Code of Civil
14 Procedure section 2031.

15 Since the complaint in the instant case is part of a scheme
16 to retaliate against Armstrong for participation in litigation,
17 and the success thereon is predicated on preventing Armstrong from
18 access to witnesses for his defense that Scientology has had
19 execute gag agreements identical to that signed by Armstrong - all
20 of which are intended to destroy evidence by making it unavailable
21 - said complaint falls in the exception to the litigation
22 privilege.

23 **IV. THERE IS NOT ANOTHER PENDING CAUSE OF ACTION**
24 **THAT IS BASED ON THE UNDERLYING COMPLAINT BEING**
AN ABUSE OF PROCESS

25 Since the underlying action in this litigation was filed
26 after the cases that have been filed in Los Angeles, and since the
27 abuse of process cause of action in the second amended cross-
28 complaint are directed at the complaint herein, Scientology's

1 argument that the demurrer must be sustained because there is
2 another action pending between the same parties on the same cause
3 of action confounds reality. Thus, it should be rejected.

4
5 **V. SANCTIONS SHOULD NOT BE IMPOSED**

6 A judge may impose monetary sanctions incurred by the other
7 party "as a result of bad-faith actions or tactics, which are
8 frivolous or which are solely intended to cause unnecessary
9 delay." (C.C.P. § 128.5.) "Frivolous means (a) "totally and
10 completely without merit" or (b) "for the sole purpose of
11 harassing an opposing party." (C.C.P. § 128.5 (b)(2).)

12 A motion is "frivolous" and in "bad faith" where "any
13 reasonable lawyer would agree it is totally devoid of merit"; e.g.
14 lacking in any basis in statutory or case law, or without the
15 necessary evidence to support it. (Karawasky v. Zachay (1983) 146
16 Cal.App.3d 679, 194 CR 292.)

17 "Counsel face the danger of being trapped between their
18 obligation to their clients to diligently pursue any possibly
19 meritorious claim, and their obligation to the judicial
20 system to refrain from prosecuting frivolous claims. '[A]n
21 attorney is often confronted with clashing obligations
22 imposed by our system of justice. An attorney has an
23 obligation not only to protect his client's interests but
24 also to respect the legitimate interests of fellow members of
25 the bar, the judiciary and the administration of justice.'
26 [Citation.]"

27 (In re Marriage of Flaherty (1982) 31 Cal.3d 637, 647, 183 CR
28 508.) Frivolous includes only issues "prosecuted for an improper
motive - to harass the respondent or delay the effect of an
adverse judgment - or when it indisputably has no merit." (Id.,
31 Cal.3d at 650.) Even after defining frivolous the court
cautioned, ". . . any definition must be read so as to avoid a

1 serious chilling effect on the assertion of litigants' rights ..."
2 and therefore "the power to punish attorneys ... should be used
3 most sparingly to deter only the most egregious conduct." (Id. 31
4 Cal.3d at 650-51.)

5 In the case at bar, Armstrong submits that any person with a
6 conscience and sense of fair play would be shocked at what
7 Scientology is doing and that its use of this Court in the instant
8 litigation is an abusive use of process.

9 **VI. CONCLUSION**

10 Based upon the foregoing, Armstrong respectfully submits that
11 the demurrer should be overruled and, if it is sustained, requests
12 leave to amend to allege Scientology's false claim to have served
13 the November 29, 1993 lis pendens on the persons set forth in its
14 proof of service attached thereto.

15 DATED: June 3, 1994

HUB LAW OFFICES

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18 By: 

FORD GREENE

Attorney for Cross-Complainant

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PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: ARMSTRONG'S OPPOSITION TO DEMURRER TO SECOND AMENDED CROSS-COMPLAINT on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028
(By Telecopier)

MICHAEL WALTON
P.O. Box 751
San Anselmo, California 94960

(By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: June 3, 1994